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10/501,144

07/13/2004

Gerald Serres Vives

SERRES VIVES2

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BROWDY AND NEIMARK, P.L.L.C.  
624 NINTH STREET, NW  
SUITE 300  
WASHINGTON, DC 20001-5303

EXAMINER

AKBAR, MUHAMMAD A

ART UNIT

PAPER NUMBER

2618

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/501,144	Applicant(s) VIVES ET AL.	
	Examiner Muhammad Akbar	Art Unit 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendments filed on 05/17/2007 have been entered. Claims 1-16 are pending in this application. Claim 1 has been amended and claim 16 has been added.

### ***Response to Arguments***

2. Applicant's arguments with respect to claim(s) 1-16 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-2,4-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzgerald et al (U.S. Patent No. 6,759,961 B2) and in view of Welch et al (U.S. Patent No. 5,774,038).

Re claim 1, Fitzgerald discloses a baby monitoring system (100 of fig.3) with a two-way communication baby monitor (see fig.2) comprising baby unit (300 of fig.2,3) i.e. transmitter unit and parent unit (200 of fig.2) i.e. receiver unit ; and baby unit (300) further comprising transceiver set having a transmitter unit (37 of fig. 2) and receiver unit (28 of fig.2) (see fig.2,3 and col. 4 lines 27-30, lines 46-50) wherein baby unit (300 of fig.3 i.e. transmitter unit) has a front unit (307 of fig.3,4) and rear housing side (309 of fig.3,4) and front unit (307) can be removed for supporting to allow other structures (like soothing unit) inside of the transmitter unit (300); and dimension of transmitter unit (300) is greater than receiver unit (200) and soothing unit (400) (see fig.3,4,5,6 and col. 5

lines 23-42). [Transceiver set has a transmitter and receiver unit, since front unit need to remove for inserting the receiver unit therefore front unit has a greater dimension than receiver unit]. But Fitzgerald does not disclose explicitly that the dimension being selected to allow storage of receiver case.

However, Welch teaches portable safety monitor for safety of child (same field of endeavor) transceiver set comprising main monitor (12 of fig.1) i.e. transmitter (12 G), receiver and remote monitor unit (14 of fig.1) i.e. receiver unit wherein main monitor unit (12) i.e. transmitter unit is selected to allow storage of remote monitor unit (14) i.e. receiver unit (see fig.1 and col. 7 lines 1-32).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the front cover unit of baby monitoring unit i.e. transmitter unit which can be removed from rear unit (as taught by Fitzgerald ) by incorporating the teaching of Welch wherein transmitter unit (12) is selected to allow storage of receiver unit (14) for holding together as one unit and convenience for charging both unit, as well as making a baby monitor transmitter device (Fitzgerald's transmitter) portable or movable without producing any new and unexpected result involves only routine skill in the art [ see *In re Lindberg*, 93 USPQ 23 (CCPA 1952)].

Re claim(s) 2 and 10, Fitzgerald discloses a baby monitoring transceiver set (300 of fig.2,3) characterized base unit (304 of fig.3); and parent unit (200 of fig.12) i.e. receiver unit is mounted on a clip (260 of fig.12) for attachment to a piece of clothing. But failed to disclose base unit of the receiver case for forming to provide to cooperate

with lower face. However, Welch teaches remote monitor (14) i.e. receiver unit which has a rear face forming to cooperate with main monitor (12) lower face (see fig.1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the transmitter unit front cover for baby monitoring transceiver by incorporating front cover wherein receiver unit (14) rear face can attached together with main monitor (12) lower face (as taught by Welch) to improve the safety system as well as easy battery charging for both unit.

Re claim(s) 4,5,6,7,8 and 13, as discussed above with respect to claim 1, and Fitzgerald further discloses transceiver set (300) has a front cover unit (307 of fig.3) which is coupling with rear cover (309 of fig.3) and front cover unit comprises lower housing base section soothing unit (400 of fig.3,4,6) (i.e. pedestal) which is carried electronics circuit for processing signals receive through a microphone (370) and speaker unit (380 of fig.1,3) [electronics circuit manage operation through microphone] (see fig.1-6,col.2 lines 53-65,col.5 lines 24-43); the lower section soothing unit (400) carries a light emitting diode (LED) and light bulb (402 of fig.4) which is connected to the electronics circuit and power supply compartment for managing the operation; and front cover unit further comprises translucent screen (319 of fig.3) which is projecting the image and light source on the lens of soothing surface (see fig.3 -10,col.3 lines 15-25,col.5 lines 36-67,col.6 lines 1-20).

Re claim(s) 9,11,12,14 and 15 as discussed above with respect to claim 1,4 and Fitzgerald furthermore discloses transceiver set (300) (300) has a front cover unit (307 of fig.3) comprises lower housing base section soothing unit (400 of fig.3,4,6) includes stopping surface (322,324) (i.e. exterior shell) coupled with housing (305) within cavity (420) and lower section soothing unit (400) carries a light emitting diode (LED) and light bulb (402 of fig.4) within the soothing unit (inner surface);and front cover unit (307) and soothing unit(400) is provided by translucent screen (319 of fig.3) (light reflecting materials) which is projecting the image and light source on the lens of soothing surface (see fig. 3 –10 and col.5 lines 30-67,col.6 lines 1-44).

Re claim 16, Fitzgerald discloses a baby monitoring system (100 of fig.3) with a two-way communication baby monitor (see fig.2) comprising baby unit (300 of fig.2,3) i.e. transmitter unit and parent unit (200 of fig.2) i.e. receiver unit ; and baby unit (300) further comprising transceiver set having a transmitter unit (37 of fig. 2) and receiver unit (28 of fig.2) (see fig.2,3 and col. 4 lines 27-30, lines 46-50) wherein baby unit (300 of fig.3 i.e. transmitter unit) has a front unit (307 of fig.3,4) and rear housing side (309 of fig.3,4) and front unit (307) can be removed for supporting to allow other structures (like soothing unit) inside of the transmitter unit (300); and dimension of transmitter unit (300) is greater than receiver unit (200) and soothing unit (400) (see fig.3,4,5,6 and col. 5 lines 23-42). [Transceiver set has a transmitter and receiver unit, since front unit need to remove for inserting the receiver unit therefore front unit has a greater dimension than

receiver unit]. But Fitzgerald does not disclose explicitly that the dimension being selected to allow storage of receiver case and transmitter case has battery case.

However, Welch teaches portable safety monitor for safety of child (same field of endeavor) transceiver set comprising main monitor (12 of fig.1) i.e. transmitter (12 G), receiver and remote monitor unit (14 of fig.1) i.e. receiver unit wherein main monitor unit (12) i.e. transmitter unit is selected to allow storage of remote monitor unit (12) i.e. receiver unit (see fig.1 and col. 7 lines 1-32); and Welch further teaches main monitor (12) i.e. transmitter unit comprises battery case (12 I of fig.2A).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the front cover unit of baby monitoring unit i.e. transmitter unit which can be removed from rear unit (as taught by Fitzgerald ) by incorporating the teaching of Welch wherein transmitter unit (12) is selected to allow storage of receiver unit (14) for holding together as one unit and convenience for charging both unit, as well as making a baby monitor transmitter device (Fitzgerald's transmitter) portable or movable without producing any new and unexpected result involves only routine skill in the art [ see *In re Lindberg*, 93 USPQ 23 (CCPA 1952)].

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzgerald as modified by Welch as applied to claim 1 above and further in view of Abrams et al (U.S. Patent No. 5,512,880).

Re claim 3, Fitzgerald discloses in combination with Welch with respect to claim 1 except ratio between the volume of said enclosure and of the receiver case is



comprised between 1.3 and 2.5. However, Abrams teaches cradle (i.e. enclosure) that has a dimension 2 inches depth, 1.875 inches height and 1.50 inches width i.e. total volume 5.625 cubic-inch and receiver has a dimension 2 inches height, 0.875 inches depth and 1.35 inches width i.e. total volume 2.406 cubic-inch, thus ratio between the volume of said enclosure and of the receiver case is comprised 2.33 which is between 1.3 and 2.5 (see fig. 1, col. 4 lines 22-31).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the front unit of transceiver set for baby monitor by incorporating removable cover of Welch transmitter unit that can be removed for inserting the enclosure by applying ratio of cradle housing and receiver case (as taught by Abrams) for best fitting the receiver unit in the cradle enclosure properly and securely of a baby monitoring set.

### ***Conclusion***

8. The amendment necessitated the new ground(s) of rejection presented in this office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP 706.07(a).


Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and

any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Muhammad Akbar whose telephone number is (571)-270-1218. The examiner can normally be reached on Monday- Thursday (7:30 A.M.- 5:00P.M). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lana Le can be reached on 571-272-7891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MA

  
8-02-07  
LANA LE  
PRIMARY EXAMINER